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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/551,743

09/11/2006

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07/21/2011

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EXAMINER

MCCLAIN-COLEMAN, TYNESHA L.

ART UNIT

PAPER NUMBER

1789

MAIL DATE

DELIVERY MODE

07/21/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/551,743 | Applicant(s) MAMIYA, MINORU | |
| | Examiner TYNESHA MCCLAIN-COLEMAN | Art Unit 1789 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,8,9,11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,8,9,11,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2010 and 30 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed June 17, 2011 has been acknowledged. Claims 1, 3-4, 6, 8-9, 11, and new claims 13-14 are pending in the application. Claims 2, 5, 7, 10, and 12 have been cancelled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 17, 2011 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1, 3-4, 6, 8-9, 11, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Abraham* in view of *Buist*
6. With respect to claims 1, 3-4, 6, 8-9, 11, and 13-14, *Abraham* discloses spreading linseed oil onto a surface with an applicator (page 157, Introduction, 2nd paragraph). Linseed oil is a drying oil and it polymerizes, hardens on exposure to air, and forms a film (page 157, Introduction, 2nd paragraph; page 158, bottom left and bottom right columns). The film is like a rubbery skin (page 159, right column, 1st paragraph). Linseed oil consists primarily of the mixed glycerides of linoleic and linolenic acid (page 157, Introduction, 2nd paragraph).
7. Additionally, *Abraham* discloses the drying process of the linseed oil can be sped up by boiling the linseed oil (page 159, right column, 2nd paragraph). Also, the linseed oil is capable of spontaneously igniting, and the reaction that occurs has an adiabatic temperature which is higher than 343 °C (page 159, right column, 2nd paragraph; and page 160, right column, 1st paragraph). However, *Abraham* does not disclose bringing the surface of the linseed oil into contact with a flame having a temperature of 1,000 °C or above.
8. *Buist* discloses burning slicks of oil by igniting the oil (page 43, Introduction, 3rd paragraph). As shown in Figure 1, the surface of the oil is brought into contact with a flame (page 44, Figure 1). Flame temperatures are about 900-1200 °C (page 44, Flame Temperatures and Total Heat Fluxes). Residues from oil are likely to be either sticky,

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semisolids or nonsticky solids, depending on factors such as the efficiency of the burn (page 62, Stickiness). The residue from a typical burn of oil is a semisolid, tar-like layer that has an appearance similar to the skin on an old, poorly sealed can of latex paint that has gelled (page 45, Factors Affecting Residue Amounts and Burn Efficiency, last paragraph). The residue remaining at extinction will differ in composition and properties from the parent oil (page 62, Chemical Composition, 1st-2nd paragraphs).

9. Based upon the fact that *Abraham* and *Buist* similarly teach applying oil to a surface, heating the oil to produce a film, and exposing the surface of the oil to a flame, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to contact the surface of the linseed oil, which applied to a surface of a base as disclosed by *Abraham*, with the 900-1200 °C flame as disclosed by *Buist* with the expectation of successfully preparing a functional product.

10. Claims 1, 3-4, 6, 8-9, 11, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Buist* in view of *Abraham*.

11. Regarding claims 1, 3-4, 6, 8-9, 11, and 13-14, *Buist* discloses burning slicks of oil by igniting the oil (page 43, Introduction, 3rd paragraph). As shown in Figure 1, the surface of the oil, which is on the surface of the water, is brought into contact with a flame (page 44, Figure 1). Flame temperatures are about 900-1200 °C (page 44, Flame Temperatures and Total Heat Fluxes). Residues from oil are likely to be either sticky, semisolids or nonsticky solids, depending on factors such as the efficiency of the burn (page 62, Stickiness). The residue from a typical burn of oil is a semisolid, tar-like layer

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that has an appearance similar to the skin on an old, poorly sealed can of latex paint that has gelled (page 45, Factors Affecting Residue Amounts and Burn Efficiency, last paragraph).

12. In addition to this, *Buist* discloses the residue remaining at extinction will differ in composition and properties from the parent oil (page 62, Chemical Composition, 1st-2nd paragraphs). However, *Buist* does not disclose the oil is a cooking oil.

13. *Abraham* discloses spreading linseed oil onto a surface with an applicator (page 157, Introduction, 2nd paragraph). Linseed oil is a drying oil and it polymerizes, hardens on exposure to air, and forms a film (page 157, Introduction, 2nd paragraph; page 158, bottom left and bottom right columns). The film is like a rubbery skin (page 159, right column, 1st paragraph). The drying process of the linseed oil can be sped up by boiling the linseed oil (page 159, right column, 2nd paragraph). The linseed oil is also capable of spontaneously igniting, and the reaction that occurs has an adiabatic temperature which is higher than 343 °C (page 159, right column, 2nd paragraph; and page 160, right column, 1st paragraph). *Abraham* also discloses linseed oil consists primarily of the mixed glycerides of linoleic and linolenic acid (page 157, Introduction, 2nd paragraph).

14. Based upon the fact that *Abraham* and *Buist* similarly teach applying oil to a surface, heating the oil to produce a film, and exposing the surface of the oil to a flame, it would have been obvious, given the teachings of *Abraham*, to use linseed oil in the method of *Buist* with the expectation of successfully preparing a functional product.

Response to Arguments

15. Applicant's arguments filed June 17, 2011 have been fully considered.
16. Due to the amendment to independent claims 1 and 11, the addition of claims 13-14, and the cancellation of claim 12, the rejection of claims 1, 3-4, 6, 8-9, and 11 over *Schuppan* and claim 12 over *Schuppan* in view of *Babrauskas* have with withdrawn. Therefore, applicant's arguments are moot. However, upon further search and consideration, a new ground(s) of rejection has been made for claims 1, 3-4, 6, 8-9, 11, and 13-14 over *Abraham* in view of *Buist* and claims 1, 3-4, 6, 8-9, 11, and 13-14 over *Buist* in view of *Abraham*. As disclosed above, *Abraham* in view of *Buist* as well as *Buist* in view of *Abraham* disclose a method of preparing a film that is similar to that as presently claimed by the applicant.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TYNESHA MCCLAIN-COLEMAN whose telephone number is (571)270-1153. The examiner can normally be reached on Monday - Thursday 7:30AM - 5:00PM Eastern Time.
18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Humera Sheikh can be reached on (571)272-0604. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Humera N. Sheikh/
Supervisory Patent Examiner, Art Unit 1789

/TYNESHA L MCCLAIN-
COLEMAN/
Examiner, Art Unit 1789